

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHELLY R MONK
Claimant

APPEAL 23A-UI-06377-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA CATHOLIC CONFERENCE
Employer

OC: 03/29/20
Claimant: Appellant (4-R)

Iowa Code § 96.4(5) – Eligibility between Academic Years or Terms

STATEMENT OF THE CASE:

On June 22, 2023, claimant Shelly R. Monk filed an appeal from the June 12, 2023 (reference 08) unemployment insurance decision that denied benefits effective June 7, 2020, based on a determination that claimant had reasonable assurance of continued employment in the coming academic year. The parties were properly notified of the hearing. A telephonic hearing was held at 2:00 p.m. on Thursday, July 13, 2023. Claimant Shelly R. Monk participated. Employer Iowa Catholic Conference participated through testimony of witness Jarret Heil, Director of Financial Operations for St. Francis Parish and School; and was represented by Paul Jahnke. No exhibits were admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Whether claimant is eligible for benefits between academic years or terms.

FINDINGS OF FACT:

Claimant was employed as the food director for St. Francis Catholic School in Marshalltown during the 2019/2020 school year, which ended on June 5, 2020. Due to the COVID-19 pandemic, the employer's school closed and claimant was sent home for the remainder of the year. Claimant has reasonable assurance of continued work as a food director for the school during the 2020/2021 school year.

Claimant was scheduled to return to work the week of August 23, 2020. Due to the derecho that caused significant destruction throughout Marshalltown in August 2020, the employer did not commence the 2020/2021 school year until September 8, 2020. The employer had no work available for claimant for the two weeks between the time it was scheduled to open and the time it ultimately opened after the derecho-caused delay.

Claimant has non-educational institution employment wage credits in her base period that appear to meet the monetary eligibility requirements when using the alternate base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant had reasonable assurance of continued employment with the Iowa Catholic Conference.

Iowa Code section 96.4(5)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.

Iowa Admin. Code r. 871-24.51(6) provides:

School definitions.

(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It

need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

In this case, claimant has reasonable assurance of continued employment for the 2020/2021 school year. However, claimant also has non-educational institution wages in her base period that make her monetarily eligible for benefits. Accordingly, benefits are allowed based upon the non-educational institution wages, provided claimant is otherwise eligible.

This matter will be remanded to remove claimant's educational wages from her base period recalculate claimant's benefits for the weeks between June 7, 2020 and August 22, 2020.

DECISION:

The June 12, 2023 (reference 08) unemployment insurance decision is modified in favor of the claimant/appellant.

Claimant had reasonable assurance of returning to work the following academic year or term but is otherwise unemployed and eligible for benefits based upon non-educational institution wages. Benefits are allowed based upon wages claimant earned from the non-educational institution, provided claimant is otherwise eligible.

REMAND:

This matter is remanded to the Benefits Bureau of Iowa Workforce Development to remove claimant's educational wages from her base period recalculate claimant's benefits for the weeks between June 7, 2020 and August 22, 2020; to award her a reduced benefit amount for those weeks, based on her non-educational wages; and to take any further actions necessary that are consistent with these actions.



Elizabeth A. Johnson
Administrative Law Judge

July 17, 2023
Decision Dated and Mailed

rvs

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.